FILED
SEP 1 9 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

Carmen Powell
372 Bay Leaf Drive
Chula Vista, Calif 91910

619 420-4204 or 619 253-1271

Carmen Powell, Plaintiff, v. City of Chula Vista; Chula Vista Police Department; Det Ruth Hinzman; AGT. Anderson; Agt. Oyos: Sgt Cervantes; and Person Entities Unknown, County of San Diego and San Diego County Protective Services Workers, Julie Smith, Nadia Najors, Megan Petfinger; Rebecca Slade and Persons and Entities unknown. Children's Hospital; Diana Chase, Nurse, Debra Davies, LCSW	)	'07 CV 1836 JAH JMA Civil Case No.____________ Complaint Under the Civil Rights Act 42 U.S.C. s 1983

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. s 1343 (a)(3) and 42 U.S.C. s 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

****Deprivation of Rights Under Color of Law Title 18, U.S.C., Section 242**
****Conspiracy Against Rights Title 18, U.S.C., Section 241**
****Pattern and Practice Title 42, U.S.C. Section 14141**

B. Parties

1. Plaintiff: This complaint alleges that the Civil Rights of Plaintiff, **Carmen Powell,** who presently resides at **372 Bay Leaf Drive, Chula Vista, CA 91910**, were violated By the actions of the below named individuals. The actions were directed against Plaintiff

at, 372 Bay Leaf Drive, Chula Vista, CA 91910 on August 17, 2006

2. Defendants: **(attach same information on additional pages if you are naming more than 4 defendants.)**

Defendant: **Julie Smith,** resides in San Diego, County, and is employed as a Sr Protective Social Worker, This defendant is sued in her (x) individual (x) official Capacity. Explain how this defendant was acting under color of law: Julie Smith knowing offered perjured testimony, fabrication of evidence, failed to disclose exculpatory evidence, coercion , maltreatment of a child, failure to protect, **Julie Smith, watched on the other side of a two way window video tape interview and filed a fabricated document as to what my child had said during the video tape interview at Children's Hospital with LCSW, Deborah Davies. Julie Smith turned the volume down with malicious intent fabricated the statement that my daughter provided. Julie Smith submitted to a court of law that my daughter said, "something bad happened in that house and Mom would get mad if I tell". My previous attorney and I had an opportunity to view approximately 5 (five) hours of my daughters taped interview. I watched in horror as my child begged for me, my daughter consistently told representatives of this agency that she was happy and safe at home and that my estranged husband Larverne Wilkerson, was a liar. Julie Smith, conspired with Deborah Davies, LCSW to intentionally and knowingly file fabricated documents with the court Under Penalty of Perjury. In addition, Julie Smith and other representatives are attempting to make my daughter admit to abuse that never occurred in our home through coercion and undue influence.**

Defendant: **Nadia Najors,** resides in San Diego, county, and is employed as a Protective Social Worker II, this defendant is sued in her (x) individual (x) official Capacity. Explain how this defendant was acting under color of law: Nadia Najors, failed to conducted a thorough investigation into false allegations of abuse and as a result she presented false statements to a court of law under penalty of perjury. In the documents she submitted she lied as to what my children said, she intentionally withheld exculpatory information/evidence, and she submitted to a court of law that she took my daughter to see a **doctor** at Children's Hospital who is a professional in the field and a child abuse expert by the name of Dr. Chase. In documents submitted to a court of law she mentioned **doctor** Chase approximately 17 (seventeen) times but through research I discovered that Ms. Chase was in fact a nurse, not a **doctor**. Nurse Chase is not a licensed physicians assistant according to the California Medical Board and therefore cannot give a diagnosis of a child.
Upon the conclusion of her inquiry concluded that she did not have grounds to remove my children. Even after the physical examination conducted by nurse Diana Chase at Children's Hospital. Her investigation also included statements provided by my family and I that **there was no domestic violence in our home,**

but this information was withheld from court documents. Nadia Najors, stood in my livingroom along with officers from the Chula Vista Police Department and witnessed my arrest for Domestic Violence and said nothing. In fact Nadia submitted to a court of law that my children were witnesses to Domestic Violence knowing all along that this was in fact not true. **Nadia Najors, witnessed and assisted the Chula Vista Police Department in taking my children into custody by my false arrest, after she had clearly told police that she had no grounds to remove my children. In addition, there was no warrant, no injuries, no exigent circumstances and no immenant danger, my children were happily playing at home when the police arrived**

Defendant: **Megan Petfinger,** resides in San Diego, county, and is employed as a Protective Social Worker, this defendant is sued in her (x) individual (x) official Capacity. Explain how this defendant was acting under color of law. Megan Petfinger, conducted an investigation lied in court documents, fabricated evidence, touched up a xerox copy of my daughter and added discoloration to appear as if there was an injury, and there was no injuries to my daughter. Megan Petfinger, put me in the Child Abuse Index based solely on the false statements of my estranged husband Laverne Wilkerson after I asked for a divorce. Megan Petfinger knew that my daughter came to my home as a foster child with documented injuries. She knowing withheld exculpatory evidence and statements and initiated or conducted an investigation to achieve or gain a personal advantage to lay a foundation for taken my children, since there was no injury they copied the body chart from September, 2001 and attributed these old injuries to me.

Defendant: **Rabecca Slade,** resides in San Diego County, and is employed as Senior Protective Social Worker, This defendant is sued in her (x) individual and (x) official capacity. Explain how this defendant was acting under the color of law: She consistently lied in court documents to gain an unfair advantage in court. In addition, she knowing lied about her telephone conversation with my daughter treating doctor of almost 3 years and lied in court documents in order to prevent my child from seeing and prevented her from the proper medical treatment and monitoring of her medications. Rebecca Slade was the sole cause in withholding necessary medications causing my daughter to go into convulsions and seizures, she also lied in court documents to isolate my child and to cut her off from her family or anyone she was familiar. Rebecca Slade lied in hear-say statements, assisted in doctoring of xerox photo to appear as if my child had injury. Rebecca Slade also blocked the release of my children to available and County approved next of kin in order to hold on to my children through illegal means through fraud, perjury, manipulation, coercion and undue duress forced upon my family and I. Rebecca Slade used her position to submit falsified documents from Nurse Diana Chase and told the court that nurse Chase was a doctor and Child Abuse Expert, which was also an intentional misrepresentation, causing my children physical and emotional abuse, subjected my child to an invasive rectal exam, one child suffered a number of injuries, emotional trauma and crying, withheld proper medical treatment causing my child to go into convulsions and seizure withdrawal because her medication caused weight loss, had a doctor manipulate my childs body through supplements, when she was healthy, the children cried and begged to go home, were taunted and teased, and none of this information was brought forward to the court by the social workers or minors council Carolyn Levenburg, who has left the case, due to conflict of interest.

Defendant: **Ruth Heinzman**, resides in San Diego county, and is employed as a Detective. this defendant is sued in her (x) individual (x) official. Explain how this defendant was acting under color of law: She fabricated evidence, intentionally failed to disclose exculpatory evidence. Lied about injury to my childs hand(s), even though my child had just been seen at Children's Hospital. If she would have had injury that would have constituted a new injury and Det Heinzman did not photograph her hands because it is a total fabrication. There is a video tape interview of myself and my daughter and the court had ordered that this evidence be turned over as part of discovery. However, the copies of my taped interview were useless because it is a blank after complaining we obtained subsequent copies and those were blank or with a blue screen with hardly any sound. The Chula Vista Police Department took me to jail on a false arrest, stating that my estranged husband and I were involved in physical Domestic Violence which was absolutely not true.

Defendant: **Agt Anderson**, resides in San Diego county, and is employed by the Chula Vista Police Department, she was the one who entered my home with many others, who when I opened the door all these people started running around my house, even up the stair case with black bags. Nadia Najors was with the police and my three minor children, two with special needs ******** Powell 11/24/97 SN, ******* Powell 07/24/03 SN and ********Powell 06/03/00, were playing at home with their video games. Agt Anderson, told me that I was under arrest for two counts battery to a spouse and threats. At no time did they mention my daughter and abuse nor did they ask me to search my house, it was later after I got out of jail that I found out that they had searched my home. To this day I do not know what they were looking for, at no time did she ever tell me anything regarding charges for my daughter. Larverne Wilkerson, had no injuries my children were fine and they certainly could have asked my children, but they clearly already knew because this was about the illegal seizure of my children and their plan to remove me.

Defendant: **SGT Cervantes**, resides in San Diego County, and is employed by the Chula Vista Police Department, he was the supervisor in charge, according to court documents there were so many people at my home and I was handcuffed my children were frightened and the police certainly could have asked me, "did you hit your husband?" and they certainly could have asked my children. The accuser was not there and I had never, ever touched or threatened this man nor has he ever touched or threatened me. But it was soon clear to me that my arrest was never about Domestic Violence, especially after all charges were dropped and I was released 4 (four) days later, not excepted by the DA's office, but my arrest had everything to do with the seizure of my children. I begged the police to turn my children over to their older adult brother, who had no allegations against him. They did call my older son to pick up his teenage sister, she was not removed, she would of course be much harder to manipulate. Although, all charges were dropped and I was released from jail, Child Welfare Services still hold my children for over a year attempting to get them to admit to abuse that never occurred.

C. Causes of Action (You may attach additional pages alleging other cause of action and the facts supporting them if necessary.)

Count 1: The following Civil Rights have been violated:

Plaintiff was arguable deprived of her right to procedural due process because the intentional use of fraudulent evidence in the procedures used by the state denied her the right to fundamentally fair procedures a right included in Procedural Due Process. **Morris v Dearborn.** Plaintiff was falsely arrested, claiming **D.V. in front of children,** supporting documents show that Social Worker Nadia Najors came with the Chula Vista Police and had my childrens statements **"there is no domestic violence in our home", The police used the D.V. pretext to seize my children without a warrant, minus exigent circumstance. Nadia Najors, Social Worker conducted an investigation, including me taking my daughter to Children's Hospital for a complete physical, and according to Nadia Najors, to Det Ruth Heinzman, "we did not have enough grounds to remove any of the children" Detective Ruth Heinzman, states in her report "Domestic Violence Supplemental" Not only did they already have my childrens statement, "the police never asked my children about domestic violence", and they only spoke with one child at the Police Department and that was 11/24/97 Powell, a fabricated statement used to seize my children under false pretext, which deprived my family of our 4th & 14th Amendment Right, Due Process of Law, Post-deprivations remedies does not provide due process.**

Count 2: Depravation of Rights Under color of Law Title 18, U.S.C., Section 242: The defendants in the action conspired in their official duty to seize my children without regards to the law, they committed a false arrest, fraud and falsified documents to support their theory and to deprive my children and myself from our Civil and Constitutional Rights, they basically called my children liars because they did not like what their investigation brought forth, so through a false arrest lies and manipulations they seized my children, through illegal means in their official capacity, depriving our family to exist without inference from the government, my one child

Count 3: Conspiracy Against Rights Title 18, U.S.C., Section 241: They conspired to take my children and got other licensed government employees to lie and falsify documents, Diana Chase, Debra Davies, Dr. Harinder Grewal, Dr. Morteza Mirkarimi all played a significant roll in the maltreatment of my children and supported these defendants by providing them with false documents and writings to submit to the court.

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar Facts involved in this case? **NO**

2. Have you previously sought and exhausted all forms of informal or formal relief from The proper administrative officials regarding the acts alleged in Part C above. **YES**

If your answer is "Yes", briefly describe how relief was sought and the results. **Attached are letters sent to everyone one involved and basically, I was laughed at and told by the Police "we have immunity", my letters go unanswered and the lies and manipulation continue and my children and my family is being destroyed. No matter what, I am going to continue to fight for my children and I believe that I have shown not only, did they not have grounds to take my children, they lied with a false arrest to seize my children. No matter how many people tell me that "no one cares about my beautiful children", I am going to pursue every legal avenue to have a fair trail by jury and I believe that I have shown that this is the proper court for my case to be heard. You are treated as if you have no rights and perjury seems to be the weapon of choice and the same tactics are used over and over and it seems that the courts simply go along and this is destroying peoples children and their families.**
I immediately wrote to Jean Shepard, Director and informed her of what these employees were doing, and this agency just continued because then it clearly became about something else....there was already documents under penalty of perjury and a false arrest. I filed a complaint with the Chula Vista Police Department, and Sgt Cervantes laughed and said "we have imunity, they have changed their story, and there was never an investigation and the video tape interview of myself, my daughter and my estranged husband was ordered by the court to be turned over, and it's a tape that is basically useless, you can only see a blue screen, you can't hear and of course they do have a viewable tape. I have not seen my special needs daughter for over a year, she was immediately cut off from every family member including to two younger children until January, 2007. On February 1, 2007, I was advised by council to except the settlement agreement by the agency that all charges would be dismissed, **if I stipulate to certain findings, that my daughter gained weight, their was a lock on the fridge, no kitchen table and altercations between myself and my husband**, and that I

would never have to deal with Social Worker Julie Smith again and that I would immediately receive a Reunification Plan, and the moment that I did, **now this agency believes that they have cover from the courts where they fill so comfortable lying. They filed another petition with the same charges, of course they dismissed the other petitions. Recently I just found out that there are** CALIFORNIA RULES OF COURT, THAT PARENT AND PARENTS COUNCIL ARE TO RECEIVE PETITIONS 10 BUSINESS DAYS BEFORE ANY HEARING AND THE COURT IS TO VERIFY THE SAME, **I HAVE NEVER RECEIVED A PETITION PRIOR TO ANY HEARING AND THE COURT HAS NEVER ASKED THE SAME, AS A MATTER OF FACT, THE COURT (MUST) READ THE PETITION, HOWEVER I HAVE NEVER BEEN TOLD THIS BY ANY ATTORNEY OR JUDGE, AND THEY SIMPLY ASK THAT THE READING OF THE PETITION BE WAVED. ALSO, AT THE FIRST HEARING ON AUGUST 22, 2006, I PLEAD NOT GUILTY AND THE AGENCY ASKED FOR A CONTINUANCE OF 4 WEEKS, AND MY PUBLIC DEFENDER IMMEDIATELY JUMPED UP AND SAID "WE AGREE YOUR HONOR", AND I WAS SHOCKED, THE JUDGE ASKED ME NOTHING, SO I SAID, "BUT YOUR HONOR THEY HAD NO GROUNDS TO TAKE MY CHILDREN, AGAIN I STATED, YOUR HONOR THEY HAD NO GROUNDS TO TAKE MY CHILDREN". BECAUSE NOW I CLEARLY UNDERSTAND WHAT HAPPENED, AND IT IS CLEAR WHY THE JUDGE IGNORED ME AND I BELIEVE THAT MY STATEMENT, THOUGH NOT WHAT A LEGAL PERSON MAY SAY, WOULD BE A CLEAR INDICATION THAT I DID NOT AGREE TO THIS EXTENTION, BUT THE COURT GRANTED THIS NIGHTMARE UPON MY CHILDREN. I STILL SEE THIS JUDGES FACE, HE APPEARED SURPRISED AND KEPT PULLING AT HIS ROBE AND AT THAT TIME HE SHOULD HAVE READ TO ME THE REQUIRED STIPULATIONS IN COURT AND MY RIGHTS TO HAVE MY CHILDREN RELEASED TO ME IN TWO DAYS, AND I WANT TO EVENTUALLY KNOW WHY AN ATTORNEY WHO IS SUPPOSE TO BE REPRESENTING ME, WOULD AGREE TO THE HOLDING OF MY CHILDREN, WHEN I HAD INTERVIEWED WITH HIM PRIOR TO GOING INTO COURT, AND HE KNEW CLEARLY THAT I WANTED MY CHILDREN RETURNED TO ME.**

Sept 19, 2007 [signature]

JS44

(Rev. 07/89)

CIVIL COVER SHEET

FILED

SEP 19 2007

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS Carmen Powell

DEFENDANTS City of Chula Vista, CV Police Dept, Det B. Huizmar, Agt Anderson, Agt Cops, Sgt C[illegible] Entities unknown, City of SD, S[illegible] SPD, Nadia Najera, Megan Rotfi[illegible], Rebecca Slade [illegible] Persons and Entities unknown [illegible] Diana Chase, Nurse and Debra Davies LCSW

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

San Diego

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) San Diego

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Carmen Powell

Request for council

ATTORNEYS (IF KNOWN)

'07 CV 1836 JAH JMA

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT (For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business in This State	☐4	4
Citizen of Another State	☐2	☐2	Incorporated and Principal Place of Business in Another State	☐5	☐5
Citizen or Subject of a Foreign Country	☐3	☐3	Foreign Nation	☐6	☐6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY). Deprivation of Rights under Color of Law Title 18 U.S.C. Sec 242 Conspiracy Against Rights Title 18 U.S.C. Section 241 Pattern of Practice Title 42 U.S.C. Sec 14141

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT

- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veterans Benefits
- ☐ 160 Stockholders Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability

REAL PROPERTY

- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectmant
- ☐ 240 Tort to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY

- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY

- ☐ 362 Personal Injury-Medical Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY

- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS

- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/Accommodations
- ☐ 444 Welfare
- ☒ 440 Other Civil Rights

PRISONER PETITIONS

- ☐ 510 Motions to Vacate Sentence Habeas Corpus
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prisoner Conditions

FORFEITURE/PENALTY

- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC881
- ☐ 630 Liquor Laws
- ☐ 640 RR & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR

- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY

- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS

- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY

- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS

- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES

- ☐ 400 State Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities Exchange
- ☐ 875 Customer Challenge 12 USC
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State
- ☐ 890 Other Statutory Actions

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- 2 Removal from State Court
- ☐ 3 Remanded from Appelate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 **DEMAND $** Check YES only if demanded in complaint: **JURY DEMAND:** ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE Sept 19, 2007 SIGNATURE OF ATTORNEY OF RECORD [signature]

::ODMA\PCDOCS\WORDPERFECT\22816\1 January 24, 2000 (3:10pm)